

# ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Jones Analyst: Deborah Barrett Bill Number: AB 1168

Related Bills: See Legislative History Telephone: 845-4301 Amended Date: March 29, 2007 & April 16, 2007

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Security of Social Security Numbers/FTB Truncate Social Security Numbers On Lien Abstracts And Any Other Records Created By The Board That Are Disclosable

## SUMMARY

This bill would require Franchise Tax Board (FTB) to truncate social security numbers (SSNs) on liens or other documents made public.

## SUMMARY OF AMENDMENTS

The March 29, 2007, amendments revised requirements related to California universities and colleges and offices that accept financing statements that would not impact this department and are not included in this analysis. The April 16, 2007, amendments revised requirements related to redacting SSNs on the liens filed by FTB.

This is the department's first analysis of this bill.

## PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to remove SSNs from public documents to reduce the incidence of identity theft.

## EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2008, and would be operative for lien abstracts and other disclosable records created on or after that date.

## POSITION

Pending.

Board Position:

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<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Lynette Iwafuchi  
for Selvi Stanislaus

5/11/07

## **ANALYSIS**

### STATE LAW

Under current state law, at the time an unpaid income or franchise tax debt becomes due and payable, the unpaid amount automatically gives rise to a perfected and enforceable state tax lien. A state tax lien attaches to all property and rights to property, including all after acquired property, belonging to the person located in California. Under the concept of “first in time, first in right,” where liens are competing for an interest in the same parcel of real property, the lien recorded first in time takes priority over later recorded liens.

A county recorder is prohibited from altering any document submitted for recording.

Under current state law, state agencies are prohibited, with exceptions, from the following:

- Publicly posting or displaying an individual’s SSN;
- Printing an individual’s SSN on any card required to access products or services;
- Requiring an individual to transmit his or her SSN over the Internet unless the connection is secure or the SSN is encrypted;
- Requiring an individual to use his or her SSN to access an Internet website unless a password or unique personal identification number is also required to access the website; and
- Printing an individual’s SSN on any materials that are mailed to the individual, unless state or federal law requires the SSN to be on the document.

Documents required to be recorded, such as state tax liens, are expressly exempt from current limitations in state law relating to the use of SSNs. Additionally, current law does not prohibit FTB from using an individual’s SSN as an internal identifier, including SSNs on documents mailed to third parties such as garnishments and levies.

The California Public Records Act (PRA) is designed to give the public access to information in possession of public agencies to the extent that information is a public record. Personal information that would identify an individual, such as an SSN, is exempt from disclosure under the PRA.

### THIS BILL

This bill would require a local agency to truncate any SSN on any document it is required to make available to the public. The term “truncate” would be defined by this bill to mean to redact the first five digits of an SSN. For county recorders, the requirement to truncate SSNs would apply only to public records and not to official records. No operative date is specified for when the local agency must begin truncating SSNs on the documents.

This bill would require FTB to truncate SSNs on lien abstracts and any other records created by FTB that are disclosable under the PRA. SSNs would be required to be truncated so that no more than the last four digits of any SSN are displayed. For purposes of this requirement, truncating is specifically defined to mean to redact the first five digits of an SSN prior to disclosing the lien document.

## **PROGRAM BACKGROUND**

The FTB collects personal information from various sources, including from taxpayers and from agencies required to report financial information. This information is used for compliance development, audit, and collection purposes. Federal and state tax laws require that an individual's SSN be used as the identifying number for that individual with regard to income taxes.

In every county recorder's office in this state, there are substantial numbers of state tax lien documents that have been recorded in the last 30 years that represent a valid claim against real property held by the individual identified on the lien document. Liens that have been satisfied along with the release document remain in county records and include, among other personal information, a taxpayer's SSN. The lien documents are used to establish rights to property interests and are viewed by title companies and other entities to determine lien priority in comparison to other lien interests or to identify and clear encumbrances on title when property changes hands.

On February 2, 2007, FTB began masking the first five digits of the SSN on lien documents issued by the department. FTB is in compliance with the provisions related to lien documents that would be added by this bill. FTB's systems will be automated to be compliant by June 2007.

## **IMPLEMENTATION CONSIDERATIONS**

Implementing this bill would not significantly impact the department's programs or operations because FTB already redacts the first five digits of an SSN on any lien document filed at the recorder's office.

## **TECHNICAL CONSIDERATION**

Sec. 4 of this bill allows filing offices to truncate any SSN on a filed record before disclosing to the public, but refers to local agencies for the operative date of this section. On page 11, lines 8 and lines 11, the words "local agency" should be replaced with "filing office" to be consistent with the section addressing filing offices.

## **LEGISLATIVE HISTORY**

AB 703 (Ruskin 2007/2008) would require entities to use an identifier other than an SSN, except as required by federal or state law. This bill was introduced February 22, 2007, and has yet to be referred to a committee.

SB 216 (Cox, 2007/2008) would require an abstract of judgment to contain only the last four digits of an SSN, but does not contain requirements related to the Judicial Council. This bill has been referred to the Senate Judiciary Committee.

SB 644 (Correa, et. al., 2007/2008) would limit the use of an SSN to only the last four digits of the SSN on an abstract of judgment and other court document ordering a party to pay money. This bill would also require the Judicial Council to revise their forms by April 1, 2008, to require only the last four digits of the SSN. This bill has been referred to the Senate Judiciary Committee.

AB 763 (Lieu, Stats. 2003, Ch. 532) enacted requirements that any SSN that is sent via postal mail may not be printed, in whole or in part, on a postcard or other mailer in which the SSN may be visible from the outside.

SB 25 (Bowen, Stats. 2003, Ch. 907) enacted the current limitations in existence on a state agency's use of SSNs.

AB 1811 (Bogh, 2003/2004) would have prohibited the public posting or displaying of any portion of an individual's SSN with the knowledge that it is a portion of an SSN. This bill was held in the Assembly Judiciary Committee.

## **FISCAL IMPACT**

This bill would not impact department costs because it is consistent with department practice.

## **ECONOMIC IMPACT**

This bill would not impact state income tax revenues.

## **LEGISLATIVE STAFF CONTACT**

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